

REMARKS

Claims 1-21 and 68-77 are presented for the Examiner's review and consideration. Applicants acknowledge the Examiner's indication that claims 22-67 are allowed. Applicants respectfully request that the formal drawings submitted herewith be substituted for the drawings currently on file in this application. No new matter has been added. A Notice of Appeal has been filed concurrently with this Amendment.

In the Office Action, claims 1-22 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,199,865 to Liang ("Liang"), and claims 68-77 were rejected under 35 U.S.C. § 102(a or e) as being anticipated by U.S. Patent No. 6,213,759 to Sung ("Sung"). Applicants respectfully traverse.

Independent claim 1

Independent claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Liang. The Examiner stated:

"Liang clearly discloses a lighter having . . . a moveable wand assembly . . . capable of causing the actuating member to be immobilized sufficiently to prevent ignition of the fuel, as recited in column 2. When the wand is in the closed position, actuation is sufficiently prevented."

Independent claim 1 recites, *inter alia*, a lighter comprising a housing having a supply of fuel, an actuating member and a moveable wand assembly capable of causing the actuating member to be immobilized sufficiently to prevent ignition of the fuel. For the reasons which follow, Applicants respectfully submit that Liang does not anticipate independent claim 1, and allowance thereof is respectfully requested.

1. Liang does not show each and every element of claim 1.

As disclosed in the figures and specification of Liang: FIG. 1 illustrates the preferred embodiment of the foldable safety lighter of Liang. (Liang, FIG.1, 1:44-45); FIGS. 2-6 disclose the structure and operation of the rotating lighter nozzle. (Liang, FIGS. 2-6, 1:46-58); and, FIGS. 7-8 disclose the safety control mechanism of the Liang lighter. (Liang, FIGS. 7-8, 1:59-62). Outer shells 1 and 1' are the only elements common to FIGS 2-6 and FIGS. 7-8. The control knob 3 is not shown in FIGS. 2-6, and the control knob 3 is not referred to in the specification section describing FIGS 1-6. (Liang, FIGS. 2-6; 1:66-2:28). Similarly, the rotating nozzle of Liang is not shown in FIGS. 7-8, and the rotating nozzle is not described in connection with the control knob 3 or safety locking mechanism. (Liang, FIGS. 7-8, 2:29-3:49). Thus, contrary to the Examiner's statement in rejecting claim 1, there

is no disclosure, teaching or suggestion in Liang of a moveable wand assembly capable of causing the actuating member to be immobilized sufficiently to prevent ignition of the fuel.

2. The Examiner's interpretation of Liang does not meet the requirements of claim 1.

The Examiner's reason for rejecting claim 1-- (i.e., that "[w]hen the wand is in the closed position, actuation is sufficiently prevented") -- does not satisfy all the limitations of claim 1. Claim 1 requires that the wand assembly be capable of causing the actuating member to be immobilized sufficiently to prevent ignition of the fuel. It is improper for the Examiner to ignore the immobilizing requirement in rejecting claim 1. "Immobilize" according to the American Heritage Dictionary, Third Edition, is defined as "to render immobile; fixed," while, "immobile" is defined as "immoveable; fixed." As characterized by the Examiner, the rotating nozzle of Liang, when folded, blocks a user's access to the control knob so that "actuation is sufficiently prevented." The rotating nozzle of Liang does not have the ability to render the control knob substantially immovable, as required by claim 1. In other words, Liang does not have the ability to cause the control knob to be fixed sufficiently to prevent ignition of the lighter as required by claim 1. Accordingly, the Examiner's interpretation of the inherent disclosure of Liang fails to meet all the limitations of claim 1.

3. Claim 1 is not vague and indefinite.

The Examiner has also taken the position that the recitation of claim 1 requiring a "wand assembly capable of causing the actuating member to be immobilized sufficiently to prevent ignition of the fuel" is "vague and broad terminology," which allows claim 1 to be reasonably interpreted to read on the lighter assembly of Liang. This position is incorrect as even the broadest interpretation does not permit the Examiner to eliminate the immobilizing requirement of claim 1. In addition, Applicants respectfully submit that the Examiner's rationale is not a permissible basis for rejecting claim 1. First, 35 U.S.C. § 112, second paragraph, is the only appropriate basis for rejecting a claim that the Examiner believes to be vague. No such rejection was made by the Examiner with regard to claim 1. Second, claim terms such as "capable of causing" and "sufficiently" have clear meaning as shown by the dictionary definitions presented and adopted herein¹. As the meaning of these

¹ The American Heritage Dictionary, Third Edition, includes the following definitions which are incorporated herein:

- capable - having capacity or ability;

(continued...)

terms are inconsistent with the Examiner's position, Liang does not anticipate claim 1, because each and every element recited in claim 1 is not disclosed, taught or suggested in Liang.

Dependent claims 2-21

With respect to claims 2-21 which depend from independent claim 1, Applicants respectfully submit that because these claims define more particular aspects of Applicants' invention in addition to the features and elements of independent claim 1, these claims are also patentably distinct from Liang for the same reasons as claim 1, as well as the additional features of the respective claims. As the features and elements recited in claim 2-22 are not disclosed, suggested or taught by Liang, Applicants respectfully submit that claims 2-22 are in condition for allowance, and respectfully request that the above-identified rejections under 35 U.S.C. §102(b) be withdrawn.

Independent claim 68

Independent claim 68 was rejected under 35 U.S.C. § 102(a or e) as being anticipated by U.S. Patent No. 6,213,759 to Sung ("Sung"). The Examiner stated:

"Sung clearly discloses. . . a conduit 28 for transporting fuel to the nozzle [16] . . . wherein the conduit contains a lead from the ignition assembly for igniting fuel at the nozzle, as seen in figure 2."

Independent claim 68 recites a lighter comprising, *inter alia*, a housing assembly having a supply of fuel, a wand assembly associated with the housing assembly and having a nozzle, a conduit for transporting fuel from the supply to the nozzle wherein the conduit contains a lead from the ignition assembly for igniting fuel at the nozzle.

As shown in FIG. 2 and described in the specification of Sung:

"Disposable utility lighter 10 is conventional in construction and operation as shown in FIG. 2, and is comprised of a fluid reservoir 26, providing fluid through tube 28 to nozzle tip 16, which is ignited by a spark at spark gap 30. Fluid is released to nozzle tip 16 by trigger 18, engaging lever 34 to open valve 36, allowing fluid to flow from fluid reservoir 26 through tube 28 to nozzle tip 16. Nearly simultaneously, trigger 18 activates spark generator 25 to generate a spark at spark gap 30. This construction is conventional in nearly all disposable utility lighters." (Sung, 5:8-17).

¹(...continued)

- cause - the producer of an effect, result or consequence;
- causing - To be the cause of or reason for; and
- sufficiently - being as much as is needed.

As shown in FIGS 2-4 of Sung, tube 28 does not contain a lead. As best shown in FIG. 4, spark generator 25 appears to electrically connect with two conductive elements for creating a spark at the spark gap 30. A marked-up version of FIGS 2-4 is provided as Appendix C, which shows the spark generator 25; the two electrical leads emanating from the spark generator; and the tube 28 for delivering fuel from the fuel supply 26 to the nozzle tip 16. As illustrated by the marked-up version of FIGS. 2-4, Sung shows, without question, a conduit for transporting fuel to the nozzle and an electrical circuit for igniting fuel at the nozzle, that is not contained in the fuel conduit. The American Heritage Dictionary, Third Edition, defines "contain" as "to have within; hold." Thus, Sung fails to disclose, teach or suggest a conduit for transporting fuel from the supply to the nozzle, wherein the conduit contain a lead for igniting fuel at the nozzle as required by independent claim 68. There is no lead from the ignition assembly for igniting fuel at the nozzle within the lighter disclosed in Sung. Accordingly, Applicants respectfully submit that Sung does not anticipate independent claim 68, and that the rejection of independent claim 68 should be withdrawn.

Dependent claims 69-77

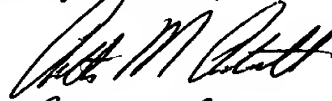
With respect to claims 69-77 which depend from independent claim 68, Applicants respectfully submit that because these claims define more particular aspects of Applicants' invention in addition to the features and elements of independent claim 68, these claims are also patentably distinct from Sung for the same reasons as claim 1, as well as the additional features of the respective claims. As the features and elements recited in claim 69-77 are not disclosed, suggested or taught by Sung, Applicants respectfully submit that claims 69-77 are in condition for allowance, and respectfully request that the above-identified rejections under 35 U.S.C. §102 be withdrawn.

In view of the foregoing remarks, it is believed that all rejections have been overcome and should be withdrawn. Thus, all current claims are submitted to be in condition for allowance, early notice of which would be appreciated. If the Examiner does not agree, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and accelerate the eventual allowance of the claims.

No fee is believed to be due for this submission. Should any fees be required, however, please charge such fees to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

Date November 18, 2002



For: BRIAN M. ROTHERY

Arthur M. Antonelli

Reg. No. 51,410

For: Brian M. Rothery

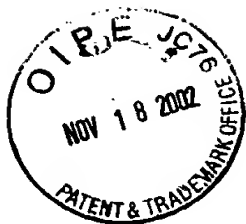
Reg. No. 35,340

PENNIE & EDMONDS LLP

1667 K Street, N.W.

Washington, DC 20006

(202) 496-4400



APPENDIX C
MARKED-UP VERSION OF SUNG FIGS. 2-4

RECEIVED
NOV 21 2002
TECHNOLOGY CENTER R3700

